

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JESSICA MAHER,

Plaintiff,

-against-

ALLIANCE MORTGAGE BANKING CORP., et al.,

Defendants.
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ORDER

CV 06-5073 (DRH) (ARL)

LINDSAY, Magistrate Judge:

By letter dated June 26, 2007, the defendants seek to compel the plaintiff's deposition. According to the defendants, the plaintiff has conditioned her deposition upon scheduling the deposition of the defendant Raymond Agoglia. According to the plaintiff, a stay of discovery should be entered in this case until such time as Mr. Agoglia is available to be deposed.

Plaintiff may not condition her compliance with a properly noticed deposition on the defendant's availability to be deposed. Accordingly plaintiff is directed to confer with the defendants to set a mutually convenient time for her deposition. To the extent possible, discovery in this case should proceed notwithstanding the pending criminal charges against Mr. Agoglia.

Although plaintiff indicates that Mr. Agoglia's deposition cannot proceed because of criminal charges pending against him, this was not the reason given for delaying his deposition. According to defense counsel they require additional time because Mr. Agoglia recently suffered a stroke. Accordingly, defense counsel is directed to notify plaintiff of Mr. Agoglia's progress in recovery and availability for a deposition. The court will consider an enlargement of the discovery schedule should it become necessary due to the special circumstances of this case.

Dated: Central Islip, New York
June 28, 2007

SO ORDERED:

_____/s/
ARLENE ROSARIO LINDSAY
United States Magistrate Judge